

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-first Legislature

OF THE

STATE OF MAINE

1923

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Private and Special Laws

OF THE

STATE OF MAINE

As Passed by the Eighty-First
Legislature

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Association or by any three of the persons named in this act, and in either case by written notice posted in the library rooms at the Knox county court house in said Rockland, and by mailing written notice to each person known to be interested, including each active member of the Knox County Bar and Library Association, at his last known place of abode, or place of business, at least seven days before the date fixed for the meeting. The return of the notice at the time and place of meeting with affidavit by the person or persons calling the meeting shall be deemed good and sufficient notice of the call for and notice of such meeting.

Sec. 7. Organization; adoption of by-laws. At such meeting, or an adjournment thereof, said corporation may organize by choice of officers, adopt by-laws, and take such other action as shall be due and lawful.

Approved March 22, 1923.

Chapter 74.

An Act to Create the Kennebec Reservoir Company and Define the Powers Thereof.
Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Corporators; name. Philip T. Dodge, H. deForest Lockwood, Rudolph Pagenstecher, Waldo E. Pratt, Garret Schenck, W. E. Winchester and Walter S. Wyman, their associates, successors and assigns are hereby made a body corporate under the name of the Kennebec Reservoir Company, with all the rights, powers and privileges hereinafter named.

Sec. 2. Capital stock. Said corporation is authorized and empowered to fix the amount of its capital stock, and the classes thereof, and to increase the same from time to time, not exceeding, however, in the aggregate two million dollars.

Sec. 3. Authorized to build dams and other structures. Said corporation is hereby authorized and empowered to build dams and other necessary works and structures on Dead river, at or near the head of Long Falls, near the southeasterly corner of township three, range four, in the county of Somerset, for the purposes of creating storage basins and reservoirs to retain and control the waters of Dead river and the tributaries thereof, thereby increasing and making more constant the flow of water in the Kennebec river, for use at all seasons of the year for manufacturing and power purposes on said Kennebec river and for facilitating the driving of logs and lumber on Dead river. And in order to facilitate the driving of logs and lumber down said Dead river without unnecessary waste of water, said corporation is authorized to build and maintain dams, side dams, sheer booms, remove rocks, make embankments and other improve-

ments on said Dead river from the location of its reservoir dams to its union with the Kennebec river.

Sec. 4. Water storage authorized; may make reasonable rules and regulations. Said corporation is authorized by means of its said works to hold, store and retain said waters in any reservoir or storage basin so created, and to discharge and release the same and control the volume and flow thereof for the uses and purposes and subject to the restrictions aforesaid. It may make such reasonable rules and regulations as may be deemed necessary for the most advantageous use thereof, and is authorized to contract with owners and users of water power benefited by said development for defraying the cost thereof in any manner which may be agreed upon.

Sec. 5. Authorized to acquire dams, booms and other property used in log driving, by purchase or eminent domain; assessments of damages. Said corporation is authorized and empowered, when subscriptions to its capital stock at least of three hundred thousand dollars have been made, to acquire by purchase or otherwise, or to take and hold, as for public uses, all, but not less than all, dams, booms, piers, rafts and other property used or useful in the driving or floating of logs or lumber, which may at the time of such purchase or taking, be located in or on any part of said Dead river, between the mouth of Alder stream and the mouth of Dead river, together with the dam at the outlet of Big Spencer pond and such works and improvements in and on the outlet stream from said outlet to Dead river, belonging to the Kennebec Log Driving Company or to any other corporation authorized by law to drive on said section of Dead river or on said outlet stream, including so much of the franchise or franchises as relate to driving on said section or on said outlet stream, and such owner or owners are authorized and empowered to sell the same to it; provided, however, that the acquisition of such franchise or franchises shall not impose any duties or burdens, or create any conditions, limitations or restrictions inconsistent with the franchises, rights and privileges elsewhere in this act conferred upon this corporation. All proceedings in relation to said taking and the assessment of damages therefor shall be as provided in chapter sixty-one, sections twelve to twenty-one, both inclusive; of the revised statutes; provided, that the legality of such taking shall not be affected by any omission of this corporation to include in its notice of taking mention of any specific item or items of property, or of any such log driving corporation owner, unless it be shown that such omission was made with fraudulent intent. Subject to the last preceding exception, any notice of taking filed as provided by law, unless otherwise expressly stated, shall be deemed to be notice of taking all that this corporation is authorized by this section to take, and all persons and corpo-

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rations affected thereby shall have the same rights and be subject to the same duties as though they and the property so affected were fully described, and may be heard and enforce their rights accordingly.

The dams, booms, piers, rafts and other property, including the dam at the outlet of Big Spencer pond and works and improvements in the outlet thereof, described in this section as the property of the Kennebec Log Driving Company, are meant to include all of the works and facilities within the territory described herein which were formerly owned and used by the Dead River Log Driving Company and are now owned, used or controlled by the Kennebec Log Driving Company with all additions thereto made or acquired by or under the latter company. If the Kennebec Reservoir Company shall offer in writing to pay the Kennebec Log Driving Company as full compensation for all of said property, including so much of its franchise as is mentioned in this section, forty thousand dollars, or a sum equal to the amount of the Kennebec Log Driving Company's existing indebtedness on account of said property, if the same be less than forty thousand dollars; and if such offer is not accepted in writing within twenty days after its receipt, said Kennebec Reservoir Company may, at its option, take the whole or any part or parts of the same as aforesaid, and may exercise and enjoy the franchises mentioned in the next section hereof to the exclusion of the Dead River Log Driving Company and the Kennebec Log Driving Company, paying them or either of them only for so much of said property as it may elect to take as for public uses as aforesaid, if any, and no more.

Sec. 6. Corporation authorized to drive logs and lumber. From and after the time when this corporation shall have acquired by purchase or otherwise, as provided in section five of this act, the properties and franchises therein mentioned, or the Kennebec Log Driving Company shall have failed to accept a written offer therefor as provided in section five, as to so much as is described in the last paragraph of said section five, and it has taken by purchase or otherwise that belonging to others than the Kennebec Log Driving Company and the Dead River Log Driving Company, it shall drive all logs and lumber that may be in said Dead river below the mouth of said Alder stream which flows into the North branch and all logs and lumber which may be delivered to it at the dam at the foot of Big Spencer pond, or in said outlet stream below the dam, including all area flowed by its dams as far as the same may extend up the South branch of Dead river, landing them in Kennebec river, or against any drive that may then be passing through or held in Kennebec river at that point, or behind booms and piers across and near the mouth of Dead river; at either of which places they are to be taken up by the owners, or others having authority to receive them, without further obli-

gation on the part of said Kennebec Reservoir Company; provided, that said logs and lumber shall not be turned over this corporation's reservoir dam against said Kennebec Log Driving Company's written protest that they cannot then be safely discharged.

Sec. 7. Drive to be made annually; general regulations in relation to log driving. This corporation shall be required to make one drive per year. It shall be started from the mouth of Alder stream not later than June first and from all other points seasonably for delivery as a unit; and reasonable effort be made to deliver it at the point where Dead river empties into Kennebec river at The Forks to be taken up by the Kennebec Log Driving Company before or at the time the rear of the main Kennebec drive passes said point. It shall not be required to drive from any starting point any logs which shall not be there when the rear of its drive shall be started from that point nor to drive the same season any logs which shall not be delivered to it before the rear of its drive passes the point of attempted delivery.

This corporation shall remove all growth on the area flowed by it seasonably to prevent it from falling and being carried away by the water. It shall keep the area at the mouth of all tributaries flowing into its reservoir and Dead river below reasonably clear for the entrance of logs and lumber during the driving seasons, and shall boom logs and lumber driven into it from said tributaries. Owners landing logs or lumber within the flowed area shall deliver them within drivable waters and boom the same. Drivable waters in this section shall be understood to mean water within a contour line representing a twenty-five foot head on the reservoir dam.

One or more persons, firms or corporations desiring to drive not less than five thousand cords of logs or pulpwood after the aforesaid annual drive has been made by this corporation may give notice thereof to this corporation in writing. This corporation may elect, in writing within twenty days, to make such drive itself, whereupon it shall undertake and complete the same within the limits and subject to the regulations governing said annual drive, as far as the same are applicable, and receive the same tolls therefor, or, if it does not so elect, the owners may make the drive at their own expense. This corporation shall make reasonable effort to land any such extra drive or drives driven by it in the Kennebec river, at The Forks, immediately after, and not before the regular drive of the Kennebec Log Driving Company shall have passed over the dam at Solon; and delivery by it to said Kennebec Log Driving Company at The Forks, or behind booms or piers in the mouth of Dead river shall terminate its responsibility. The Kennebec Log Driving Company is not bound to accept such drive unless delivered at The Forks within such limits as to time.

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This corporation shall be responsible for sufficient water to make the regular and one such extra drive annually, if so much shall have flowed into its reservoir during the current year, and shall provide water for such additional drives as may be made as aforesaid if it then has it.

Sec. 8. Toll rates collectable. This corporation is authorized and empowered to collect and receive tolls for driving logs and lumber within the area aforesaid, and parts thereof, at the following rates per thousand board feet, viz:

Between the mouth of Alder stream and the point of flowage caused by this corporation's dam located at Long Falls, twenty-five cents;

From the point of delivery within the flowage area as defined in section seven, to The Forks, seventy-five cents;

From said dam, or any point west of the mouth of Spencer stream, to The Forks, fifty cents;

From the mouth of Spencer stream, or any point west of the mouth of Enchanted stream, to The Forks, forty cents;

From the mouth of Enchanted stream, or any point west of the mouth of Salmon stream, to The Forks, thirty cents;

From the mouth of Salmon stream, or any point east, to The Forks, ten cents;

From the dam at the foot of Big Spencer pond or any point in the outlet stream to Dead river (in addition to the aforesaid tolls for driving on Dead river), thirty cents.

These tolls are to remain in force for a period of ten years, and thereafter until revised in any manner provided by the legislature. The word "west" used in designating direction in this section means the course from the mouth of Dead river toward its sources, notwithstanding the actual direction at any given point.

Sec. 9. Toll charges, when payable; lien on logs and lumber driven, provided for. Charges for driving logs and lumber, as aforesaid, shall be due and payable when the drive to be made by this corporation is completed; and said corporation shall have a lien on all such logs and lumber which it shall drive for the driving of the same as provided in this act, which lien shall have precedence of all other claims except liens reserved to the state and laborers' liens, shall continue for three months after the logs or lumber shall arrive at the place of destination for manufacture or sale, and may be enforced by attachment.

Sec. 10. Owners of logs to be driven to give notice to corporation of amount intended for drive; procedure if owner fails to give notice. The owners of logs or lumber to be driven by this corporation shall, on or before the first day of June in that year, file with the clerk of this corporation a correct statement in writing, signed by a sworn surveyor, of all such logs and lumber intended for the regular annual drive, of the number of feet, full scale, with the mark or marks thereon, together with the place from which the logs are to be driven and their destination. This corporation may adopt such statements as correct for the purpose of ascertaining the amount of tolls to which it is entitled, or cause the same to be scaled. If any owner fails to file such statement, the corporation shall give such owner notice of its intention to estimate in some convenient manner the quantity of his logs or to scale the same and unless such owner files such statement within seven days after receiving such notice, the estimate or scale of the corporation shall be conclusive upon such owner.

Whenever this corporation elects to make any later drive as provided in section seven, the foregoing provisions as to filing statements, and the effect thereof, and of failure to do so, shall be applicable thereto, except that the same be filed on or before the date of starting the drive.

Sec. 11. Corporation authorized to acquire log driving franchises. This corporation is authorized and empowered to acquire by purchase from other corporations and individuals who are authorized to drive logs or lumber on any tributaries or on the Kennebec river, and such corporations are authorized and empowered to sell and convey to it, any part or all of their respective properties and franchises for log-driving purposes; and to contract with such corporations and individuals concerning their respective duties as log-driving companies. Provided, however, that no acquisition of the franchises of another corporation and merger thereof with the franchise of this corporation in any manner under this or any other section of this act, shall be deemed to qualify or restrict any franchise or other right which this corporation otherwise acquires through this charter or from any other source, but shall be deemed to be additional thereto.

Sec. 12. Authorized to acquire lands, and other property rights, by purchase or eminent domain; right to flow lands conferred; assessment of damages. Said corporation is authorized to acquire by purchase, lease or otherwise such lands, properties and rights, including any state, public or reserved lots, as it may require; and when subscriptions to the capital stock thereof to an amount of at least three hundred thousand dollars have been made, it is authorized and empowered to take and hold as for public

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uses, such lands, properties and rights, including state, public and reserved lots, or parts thereof, as it may require for any of the aforesaid uses and purposes, and such material as may be needed for erecting and maintaining any of its dams and works, and all proceedings in relation to said taking and the assessment of damages therefor shall be as provided in said chapter sixty-one, sections twelve to twenty-one, both inclusive, of the revised statutes. Said corporation is also authorized and empowered, when subscriptions of the aforesaid amount shall have been made to its capital stock, to flow such lands as may be necessary to carry out the purposes of this act, and the damages therefor and for flowage caused or authorized under any other section of this act not otherwise expressly provided unless arranged by mutual agreement, shall be ascertained and determined in the manner prescribed in chapter ninety-seven of the revised statutes; and said corporation may also have the benefit of chapter one hundred and ninety-six of the public laws of nineteen hundred and twenty-one. The provisions of this section shall not be construed to authorize the taking of property or franchises described in section eleven otherwise than by purchase.

Flowing of highways; roads to be constructed to replace those flowed out; procedure. Provided, however, that this corporation shall not flow out any part of the highway which leads from North New Portland to Dead river and thence to Stratton until it shall have constructed in place thereof, or of such parts as are flowed, highways, or parts of highways connecting the parts of the present highway not so flowed, reasonably safe and convenient, as follows: one leading from a point south of the Ledge House, on said road from North New Portland, where the reservoir begins, to Stratton, passing east of Bigelow mountain; the other from the same point and leading by the east side of the reservoir to a point near the dam and thence on the dam or north thereof to the opposite side of Dead river. This corporation may acquire by purchase, or take as for public uses, lands and materials for the location and construction of such highways, and all proceedings in relation to said taking and the assessment of damages therefor shall be as hereinbefore provided for the taking of lands and materials for other purposes. Such highways shall be constructed to the approval of the county commissioners of the counties in which they, or the respective parts of them, are situated. This corporation shall give written notice to the clerks of the boards of county commissioners of Franklin and Somerset counties before it proceeds to build such roads, and shall locate them as directed by the joint action of said boards if it receives such directions in writing within thirty days after the giving of its notice as aforesaid; otherwise, the corporation shall fix the location. The roads so constructed shall be and become public highways, and all

rights therein and duties and obligations in respect thereof shall be the same as though said highways had been located, laid out and constructed in manner provided in the general laws of the state. Such construction shall work a discontinuance of the roads and parts of roads so flowed with the same effect as if discontinued in the manner provided by statute, and shall constitute full settlement for all damages to the state or any sub-division thereof for flowing said existing highway; provided, however, that this shall not be construed to release this corporation from any legal liability to abutters for damages caused by such flowage or changed location.

Sec. 13. Lands owned by state to be conveyed to corporation; procedure and conditions. The state land agent, or such other person as the governor and council may designate, is hereby authorized, empowered and ordered under their direction, to convey to said corporation by appropriate deeds or instruments, such state, public and reserved lots or any part or portion of the same or interest therein as shall be deemed by this corporation to be necessary or taken by it for any of the purposes of this act. Said deeds or other instruments shall contain a condition subsequent revesting in the state the title to the property and rights conveyed if said corporation fails to pay the purchase price therefor as determined in manner hereinafter provided within one year from the time so determined, and said land agent, or other person designated by the governor and council, is hereby authorized under their direction to agree upon the consideration for the purchases and damages for taking, or flowing said lots or parts thereof. And in case the parties are unable to agree upon said consideration or damages, the same are to be determined in the manner provided in section twelve of this act; and said land agent or other person designated by the governor and council is authorized to represent and act for the state in any proceedings to fix the consideration and damages as herein provided.

Sec. 14. Provision for removal of remains of dead bodies and for locating new cemeteries. This corporation is empowered to authorize the selectmen of any town, the assessors of any plantation or organized township, and the selectmen of a town or assessors of a plantation or organized township adjoining any unorganized township, to take up from any existing cemetery in such town, plantation or organized township, or unorganized township respectively, which will be flowed by any of its dams, the bodies and remains of all deceased persons buried therein, and all headstones and markers at the graves therein, and remove said bodies and remains to a new cemetery to be selected by said selectmen or assessors and there decently inter the same, and properly reset such headstones and markers over such dead bodies and remains. Such new cemeteries

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shall be located with due regard to the convenience of all the inhabitants of the respective communities in which they are located. Said selectmen and assessors are in each case, within thirty days after being so requested by this corporation, to select the place for a new cemetery and fix the bounds thereof, and to proceed with reasonable diligence to cause the removal of the bodies, remains, headstones and markers, as aforesaid. If they fail to do so, this corporation is authorized and empowered to make such selection or selections and cause such removals to be made. All of the expenses incurred in procuring the lands necessary for such cemeteries, in clearing and fitting the ground and fencing the same, and in the taking up and removal of all of the remains of all deceased persons, and in the removal of said headstones and markers, and the interment of said remains and resetting of said headstones and markers shall be paid for by this corporation.

No claim shall be made against this corporation for not complying with the terms herein set out unless the same is made within sixty days after this corporation gives said selectmen or assessors written notice that it has performed its duties under this section. And nothing herein contained shall be construed to limit or qualify the rights of flowage conferred upon this corporation by any provision of this act or which it may possess under any law of the state.

Sec. 15. Corporation may purchase, hold and sell its stock; limitations. Said corporation is authorized and empowered to purchase, hold and sell its own stock in accordance with the provisions relating thereto, which shall be provided for in the by-laws, but it shall not purchase or hold said stock except for the purpose of re-sale, or for a longer period of time than one year; provided that said corporation may retire any part or any class of its capital stock or substitute another class therefor in any manner provided in its by-laws and not inconsistent with the laws of the state.

Sec. 16. Authorized to borrow money and issue bonds. Said corporation may from time to time borrow money for any lawful purpose and may issue bonds on such terms as the stockholders may determine, secured by pledge or mortgage of all the property, franchises, and income of the corporation or any part thereof for the payment of the sums so borrowed and interest thereon; provided, that the total amount of bonds outstanding shall at no time exceed twice the amount of capital stock paid in in cash.

Sec. 17. Right to acquire franchises and property of corporation reserved to state. The state of Maine reserves the right to acquire by proper legislation and by such agencies as it may provide for the purpose the whole or any part of the franchises and rights hereby granted, and the whole or any part of the structures erected by authority of this act upon

the payment of just compensation; but such compensation shall not include the value of the franchises granted by this act, and shall not exceed the cost of the property and franchises so taken, and just compensation for damages by severance if less than the whole is so taken; provided, that said right shall not be exercised within fifty years from the date of approval of this act without the consent of said corporation, its successors or assigns.

Sec. 18. Prohibited from generating or distributing electricity. This corporation shall not generate, sell or distribute electricity in any manner, and shall not dispose of its property or franchises to any corporation which has authority to do so.

Sec. 19. First meeting, how called; meetings of directors. The first meeting of this corporation shall be called at Augusta by a notice signed by any two of the corporators named in section one, setting forth the time, place and purpose of the meeting. Such notice shall be mailed to each of the corporators, postage paid, seven days at least before the day of such meeting. Any corporator may be represented at such meeting by proxy.

Meetings of the board of directors may be held, for any purpose, within or without the state if the by-laws so provide.

(Passed over Governor's veto, March 22, 1923. Repealed; see Chapter 119, P. and S. Laws, 1923.)

Chapter 75.

An Act to Establish Close Time on Lobsters from a Point in a Straight Line from Bear Cove on the Western Side of Petit Manan Point to Little Black Ledge Directly North of Moulton's Ledge Spar Buoy to the Schoodic Island Whistling Buoy.

Be it enacted by the People of the State of Maine, as follows:

Close time on lobsters in waters adjacent to Schoodic island and Petit Manan point. No person or persons shall set any traps or other devices used for catching lobsters between the first day of July, and nine o'clock in the forenoon of August thirty-first of each year, under penalty of five dollars for each trap, or other device set within the following described limits: Beginning at a point in the straight line from Bear cove, on the western side of Petit Manan point, to Little Black ledge, directly north of Moulton's ledge spar buoy, thence directly south to said Moulton's ledge spar buoy, thence due south from said Moulton's ledge spar buoy two nautical miles; thence in a westerly direction in a straight line to a point two miles due south of Schoodic island whistling buoy, thence due north to said Schoodic island whistling buoy.

Approved March 24, 1923.